

Senate File 308 - Introduced

SENATE FILE _____
BY KIBBIE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of animal feeding operations,
2 and providing for penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2337XS 83
5 da/rj/8

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1 1 DIVISION I
1 2 DRY BEDDED CONFINEMENT FEEDING OPERATIONS
1 3 SUBCHAPTER I
1 4 GENERAL PROVISIONS
1 5 Section 1. NEW SECTION. 459B.101 TITLE.
1 6 This chapter shall be known and may be cited as the "Animal
1 7 Agriculture Compliance Act for Dry Bedded Confinement Feeding
1 8 Operations".
1 9 Sec. 2. NEW SECTION. 459B.102 DEFINITIONS.
1 10 As used in this chapter, unless the context otherwise
1 11 requires:
1 12 1. "Alluvial aquifer area" means an area underlaid by sand
1 13 or gravel aquifers situated beneath floodplains along stream
1 14 valleys and includes alluvial deposits associated with stream
1 15 terraces and benches, contiguous wind-blown sand deposits, and
1 16 glacial outwash deposits.
1 17 2. "Animal" means cattle or swine.
1 18 3. "Animal unit capacity" means the maximum number of
1 19 animal units which the owner or operator confines in a dry
1 20 bedded confinement feeding operation at any one time.
1 21 4. "Bedding" means crop, vegetation, or forage residue or
1 22 similar materials placed in a dry bedded confinement building
1 23 for the care of animals.
1 24 5. "Commercial enterprise" means the same as defined in
1 25 section 459.102.
1 26 6. "Confinement feeding operation" means the same as
1 27 defined in section 459.102.
1 28 7. "Department" means the department of natural resources.
1 29 8. "Designated area" means the same as defined in section
1 30 459A.102.
1 31 9. "Designated wetland" means the same as defined in
1 32 section 459.102.
1 33 10. "Dry bedded confinement feeding operation" means a
1 34 confinement feeding operation in which animals are confined to
1 35 areas which are totally roofed and in which all manure is
2 1 stored as dry bedded manure.
2 2 11. "Dry bedded confinement feeding operation structure"
2 3 means a dry bedded confinement feeding operation building or a
2 4 dry bedded manure storage structure.
2 5 12. "Dry bedded manure" means manure from animals that
2 6 meets all of the following requirements:
2 7 a. The manure does not flow perceptibly under pressure.
2 8 b. The manure is not capable of being transported through
2 9 a mechanical pumping device designed to move a liquid.
2 10 c. The manure contains bedding.
2 11 13. "Dry bedded manure confinement feeding operation
2 12 building" or "building" means a building used in conjunction
2 13 with a confinement feeding operation to house animals and in
2 14 which any manure from the animals is stored as dry bedded
2 15 manure.
2 16 14. "Dry bedded manure storage structure" means a covered
2 17 or uncovered structure, other than a building used to store
2 18 dry bedded manure originating from a confinement feeding

2 19 operation.
2 20 15. "Educational institution" means the same as defined in
2 21 section 459.102.
2 22 16. "Grassed waterway" means the same as defined in
2 23 section 459A.102.
2 24 17. "High-quality water resource" means the same as
2 25 defined in section 459.102.
2 26 18. "Karst terrain" means the same as defined in section
2 27 459.102.
2 28 19. "Major water source" means the same as defined in
2 29 section 459.102.
2 30 20. "Manure" means the same as defined in section 459.102.
2 31 21. "One hundred year floodplain" means the same as
2 32 defined in section 459.102.
2 33 22. "Public use area" means the same as defined in section
2 34 459.102.
2 35 23. "Stockpile" means to store dry bedded manure outside
3 1 of a dry bedded manure confinement feeding operation building
3 2 or a dry bedded manure storage structure.
3 3 24. "Water source" means the same as defined in section
3 4 459.102.

3 5 Sec. 3. NEW SECTION. 459B.103 SPECIAL TERMS.

3 6 For purposes of this chapter, all of the following shall
3 7 apply:

3 8 1. Two or more dry bedded confinement feeding operations
3 9 under common ownership or common management are deemed to be a
3 10 single dry bedded confinement feeding operation if they are
3 11 adjacent or utilize a common area or system for dry bedded
3 12 manure disposal.

3 13 2. For purposes of determining whether two or more dry
3 14 bedded confinement feeding operations are adjacent, all of the
3 15 following shall apply:

3 16 a. At least one dry bedded confinement feeding operation
3 17 structure must be constructed on or after March 21, 1996.

3 18 b. A dry bedded confinement feeding operation structure
3 19 which is part of one dry bedded confinement feeding operation
3 20 is separated by less than one thousand two hundred fifty feet
3 21 from a dry bedded confinement feeding operation structure
3 22 which is part of the other dry bedded confinement feeding
3 23 operation.

3 24 3. a. For purposes of determining whether two or more dry
3 25 bedded confinement feeding operations are under common
3 26 ownership, a person must hold an interest in each of the dry
3 27 bedded confinement feeding operations as any of the following:

3 28 (1) A sole proprietor.

3 29 (2) A joint tenant or tenant in common.

3 30 (3) A holder of a majority equity interest in a business
3 31 association as defined in section 202B.102, including but not
3 32 limited to as a shareholder, partner, member, or beneficiary.

3 33 b. An interest in the dry bedded confinement feeding
3 34 operation under paragraph "a", subparagraph (1) or (2) which
3 35 is held directly or indirectly by the person's spouse or
4 1 dependent child shall be attributed to the person.

4 2 4. For purposes of determining whether two or more dry
4 3 bedded confinement feeding operations are under common
4 4 management, a person must have significant control of the
4 5 management of the day-to-day operations of each of the dry
4 6 bedded confinement feeding operations. Common management does
4 7 not include control over a contract livestock facility by a
4 8 contractor, as defined in section 202.1.

4 9 5. In calculating the animal unit capacity of a dry bedded
4 10 confinement feeding operation, the animal unit capacity shall
4 11 include the animal unit capacity of all dry bedded confinement
4 12 feeding operation buildings that are used to house animals in
4 13 the dry bedded confinement feeding operation.

4 14 Sec. 4. NEW SECTION. 459B.104 GENERAL AUTHORITY ==
4 15 COMMISSION AND DEPARTMENT == PURPOSE == COMPLIANCE.

4 16 1. The environmental protection commission shall establish
4 17 by rule adopted pursuant to chapter 17A, requirements relating
4 18 to the construction, including expansion, or operation of dry
4 19 bedded confinement feeding operations, including related dry
4 20 bedded manure confinement feeding operation buildings and
4 21 stockpiles.

4 22 2. Any provision referring generally to compliance with
4 23 the requirements of this chapter as applied to dry bedded
4 24 confinement feeding operations also includes compliance with
4 25 requirements in rules adopted by the environmental protection
4 26 commission pursuant to this section, orders issued by the
4 27 department as authorized under this chapter, and the terms and
4 28 conditions applicable to manure management plans required
4 29 under this chapter.

4 30 3. The purpose of this chapter is to provide requirements
4 31 relating to the construction, including the expansion, and
4 32 operation of dry bedded confinement feeding operations, and
4 33 the control of dry bedded manure which shall be construed to
4 34 supplement applicable provisions of chapter 459. If there is
4 35 a conflict between the provisions of this chapter and chapter
5 1 459, the provisions of this chapter shall prevail.

5 2 SUBCHAPTER II

5 3 DRY BEDDED MANURE STRUCTURES ==

5 4 CONSTRUCTION REQUIREMENTS

5 5 Sec. 5. NEW SECTION. 459B.201 CONSTRUCTION DESIGN
5 6 STANDARDS.

5 7 A person constructing a dry bedded confinement feeding
5 8 operation structure on karst terrain or in an alluvial aquifer
5 9 area shall comply with all of the following:

5 10 1. The person must construct the dry bedded confinement
5 11 feeding operation structure at a location where there is a
5 12 vertical separation distance of at least five feet between the
5 13 bottom of the floor of the dry bedded confinement feeding
5 14 operation structure and the underlying limestone, dolomite, or
5 15 other soluble rock in karst terrain or the underlying sand and
5 16 gravel aquifer in an alluvial aquifer area.

5 17 2. The dry bedded confinement feeding operation structure
5 18 must have a floor consisting of reinforced concrete at least
5 19 five inches thick.

5 20 Sec. 6. NEW SECTION. 459B.202 DISTANCE REQUIREMENTS.

5 21 1. Except as provided in subsection 3, the following shall
5 22 apply:

5 23 a. A dry bedded confinement feeding operation structure
5 24 shall not be constructed closer than five hundred feet away
5 25 from the surface intake of an agricultural drainage well. A
5 26 dry bedded confinement feeding operation structure shall not
5 27 be constructed closer than one thousand feet from a wellhead,
5 28 cistern of an agricultural drainage well, or known sinkhole.

5 29 b. A dry bedded confinement feeding operation structure
5 30 shall not be constructed if the dry bedded confinement feeding
5 31 operation structure as constructed is closer than any of the
5 32 following:

5 33 (1) Two hundred feet away from a water source other than a
5 34 major water source.

5 35 (2) One thousand feet away from a major water source.

6 1 (3) Two thousand five hundred feet away from a designated
6 2 wetland.

6 3 c. (1) A water source, other than a major water source,
6 4 shall not be constructed, expanded, or diverted, if the water
6 5 source as constructed, expanded, or diverted is closer than
6 6 two hundred feet away from a dry bedded confinement feeding
6 7 operation structure.

6 8 (2) A major water source shall not be constructed,
6 9 expanded, or diverted, if the major water source as
6 10 constructed, expanded, or diverted is closer than one thousand
6 11 feet from a dry bedded confinement feeding operation
6 12 structure.

6 13 (3) A designated wetland shall not be established, if the
6 14 designated wetland is closer than two thousand five hundred
6 15 feet away from a dry bedded confinement feeding operation
6 16 structure.

6 17 2. A dry bedded confinement feeding operation structure
6 18 shall not be constructed on land that is part of a one hundred
6 19 year floodplain.

6 20 3. A separation distance required in subsection 1 shall
6 21 not apply to any of the following:

6 22 a. A location or object and a farm pond or privately owned
6 23 lake, as defined in section 462A.2.

6 24 b. A dry bedded confinement feeding operation structure
6 25 constructed with a secondary containment barrier. The
6 26 department shall adopt rules providing for the construction
6 27 and use of a secondary containment barrier.

6 28 SUBCHAPTER III

6 29 DRY BEDDED MANURE CONTROL

6 30 Sec. 7. NEW SECTION. 459B.301 STOCKPILING == AIR
6 31 QUALITY.

6 32 A person may stockpile dry bedded manure, subject to this
6 33 section.

6 34 1. Except as provided in subsection 2, a person shall not
6 35 stockpile dry bedded manure within one thousand two hundred
7 1 fifty feet from a residence not owned by the titleholder of
7 2 the land, a commercial enterprise, a bona fide religious
7 3 institution, an educational institution, or a public use area.

7 4 2. A person may stockpile dry bedded manure within a
7 5 separation distance required between the stockpiled dry bedded

7 6 manure and an object or location for which separation is
7 7 required under subsection 1, if any of the following apply:
7 8 a. The titleholder of the land benefiting from the
7 9 separation distance requirement executes a written waiver with
7 10 the titleholder of the land where the dry bedded manure is
7 11 stockpiled.

7 12 b. The stockpiled dry bedded manure originates from a
7 13 small animal feeding operation.

7 14 Sec. 8. NEW SECTION. 459B.302 STOCKPILING == WATER
7 15 QUALITY.

7 16 A person may stockpile dry bedded manure, subject to all of
7 17 the following:

7 18 1. a. The person shall not stockpile the dry bedded
7 19 manure within the following distances to a designated area
7 20 unless the dry manure is maintained in a manner that will not
7 21 allow precipitation=induced runoff to drain from the dry
7 22 bedded manure to the designated area:

7 23 (1) Four hundred feet from a designated area other than a
7 24 high=quality water resource.

7 25 (2) Eight hundred feet from a high=quality water resource.

7 26 b. The person shall not stockpile dry bedded manure within
7 27 two hundred feet from a terrace tile inlet or surface tile
7 28 inlet unless the dry bedded manure is maintained in a manner
7 29 that will not allow precipitation=induced runoff to drain from
7 30 the dry bedded manure to the terrace tile inlet or surface
7 31 tile inlet.

7 32 c. The person shall not stockpile dry bedded manure in a
7 33 grassed waterway, where water pools on the soil surface, or in
7 34 any location where surface water will enter the stockpiled dry
7 35 bedded manure.

8 1 d. The person shall not stockpile dry bedded manure on
8 2 land having a slope of more than three percent unless methods,
8 3 structures, or practices are implemented to contain the
8 4 stockpiled dry bedded manure, including but not limited to
8 5 using hay bales, silt fences, temporary earthen berms, or
8 6 other effective measures, and to prevent or diminish
8 7 precipitation=induced runoff from the stockpiled dry bedded
8 8 manure.

8 9 e. The person shall not stockpile dry bedded manure on
8 10 karst terrain or in an alluvial aquifer area unless the person
8 11 complies with all of the following:

8 12 (1) The person must stockpile the dry bedded manure at a
8 13 location where there is a vertical separation distance of at
8 14 least five feet between the bottom of the stockpiled dry
8 15 manure and the underlying limestone, dolomite, or other
8 16 soluble rock in karst terrain or the underlying sand and
8 17 gravel aquifer in an alluvial aquifer area.

8 18 (2) The dry bedded manure must be stockpiled on reinforced
8 19 concrete at least five inches thick.

8 20 2. The person shall remove the stockpiled dry bedded
8 21 manure and apply it in accordance with the provisions of
8 22 chapter 459, including but not limited to section 459.311,
8 23 within six months after the dry bedded manure is stockpiled.

8 24 Sec. 9. NEW SECTION. 459B.303 MANURE MANAGEMENT PLAN FOR
8 25 A DRY BEDDED CONFINEMENT OPERATION.

8 26 For purposes of a manure management plan for a dry bedded
8 27 confinement operation, if the application of dry bedded manure
8 28 is on land other than land owned or rented for crop production
8 29 by the owner of the dry bedded confinement feeding operation,
8 30 the plan shall include a copy of each written agreement
8 31 executed by the owner of the dry bedded confinement feeding
8 32 operation and the landowner or the person renting the land for
8 33 crop production where the dry bedded manure may be applied.

8 34 SUBCHAPTER IV
8 35 ENFORCEMENT

9 1 Sec. 10. NEW SECTION. 459B.401 GENERAL.

9 2 The department and the attorney general shall enforce the
9 3 provisions of this chapter in the same manner as provided in
9 4 chapter 459, subchapter VI.

9 5 Sec. 11. NEW SECTION. 459B.402 VIOLATIONS == CIVIL
9 6 PENALTY.

9 7 A person who violates section 459B.301, shall be subject to
9 8 the same penalty as provided in section 459.602 and a person
9 9 who violates any other provision of this chapter shall be
9 10 subject to the same penalty as provided in section 459.603.
9 11 Any civil penalty collected shall be deposited in the animal
9 12 agriculture compliance fund created in section 459.401.

9 13 DIVISION II
9 14 CONFORMING CHANGES

9 15 Sec. 12. Section 455A.4, subsection 1, paragraph b, Code
9 16 2009, is amended to read as follows:

9 17 b. Provide overall supervision, direction, and
9 18 coordination of functions to be administered by the
9 19 administrators under chapters 321G, 321I, 455B, 455C, 456,
9 20 456A, 456B, 457A, 458A, 459, 459A, 459B, 461A, 462A, 462B,
9 21 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B.

9 22 Sec. 13. Section 455B.103, subsection 4, unnumbered
9 23 paragraph 1, Code 2009, is amended to read as follows:
9 24 Conduct investigations of complaints received directly or
9 25 referred by the commission created in section 455A.6 or other
9 26 investigations deemed necessary. While conducting an
9 27 investigation, the director may enter at any reasonable time
9 28 in and upon any private or public property to investigate any
9 29 actual or possible violation of this chapter, chapter 459,
9 30 chapter 459A, or the rules or standards adopted under this
9 31 chapter, chapter 459, ~~or chapter 459A, or chapter 459B~~.

9 32 However, the owner or person in charge shall be notified.
9 33 Sec. 14. Section 455B.103A, subsection 1, unnumbered
9 34 paragraph 1, Code 2009, is amended to read as follows:

9 35 If a permit is required pursuant to this chapter, ~~or~~
10 1 chapter 459, ~~or chapter 459A, or 459B~~ for storm water
10 2 discharge or an air contaminant source and a facility to be
10 3 permitted is representative of a class of facilities which
10 4 could be described and conditioned by a single permit, the
10 5 director may issue, modify, deny, or revoke a general permit
10 6 for all of the following conditions:

10 7 Sec. 15. Section 455B.105, subsections 3, 6, and 8, Code
10 8 2009, are amended to read as follows:

10 9 3. Adopt, modify, or repeal rules necessary to implement
10 10 this chapter, chapter 459, ~~and~~ chapter 459A, ~~and chapter 459B~~,
10 11 and the rules deemed necessary for the effective
10 12 administration of the department. When the commission
10 13 proposes or adopts rules to implement a specific federal
10 14 environmental program and the rules impose requirements more
10 15 restrictive than the federal program being implemented
10 16 requires, the commission shall identify in its notice of
10 17 intended action or adopted rule preamble each rule that is
10 18 more restrictive than the federal program requires and shall
10 19 state the reasons for proposing or adopting the more
10 20 restrictive requirement. In addition, the commission shall
10 21 include with its reasoning a financial impact statement
10 22 detailing the general impact upon the affected parties. It is
10 23 the intent of the general assembly that the commission
10 24 exercise strict oversight of the operations of the department.
10 25 The rules shall include departmental policy relating to the
10 26 disclosure of information on a violation or alleged violation
10 27 of the rules, standards, permits or orders issued by the
10 28 department and keeping of confidential information obtained by
10 29 the department in the administration and enforcement of this
10 30 chapter, chapter 459, ~~and~~ chapter 459A, ~~and chapter 459B~~.
10 31 Rules adopted by the executive committee before January 1,
10 32 1981, shall remain effective until modified or rescinded by
10 33 action of the commission.

10 34 6. Approve all contracts and agreements under this
10 35 chapter, chapter 459, ~~and~~ chapter 459A, ~~and chapter 459B~~
11 1 between the department and other public or private persons or
11 2 agencies.

11 3 8. Hold public hearings, except when the evidence to be
11 4 received is confidential pursuant to this chapter, chapter 22,
11 5 chapter 459, ~~or~~ chapter 459A, ~~or chapter 459B~~, necessary to
11 6 carry out its powers and duties. The commission may issue
11 7 subpoenas requiring the attendance of witnesses and the
11 8 production of evidence pertinent to the hearings. A subpoena
11 9 shall be issued and enforced in the same manner as provided in
11 10 civil actions.

11 11 Sec. 16. Section 455B.105, subsection 11, paragraph a,
11 12 unnumbered paragraph 1, Code 2009, is amended to read as
11 13 follows:

11 14 Adopt, by rule, procedures and forms necessary to implement
11 15 the provisions of this chapter, ~~chapter and chapters 459, and~~
11 16 ~~chapter 459A, and 459B~~ relating to permits, conditional
11 17 permits, and general permits. The commission may also adopt,
11 18 by rule, a schedule of fees for permit and conditional permit
11 19 applications and a schedule of fees which may be periodically
11 20 assessed for administration of permits and conditional
11 21 permits. In determining the fee schedules, the commission
11 22 shall consider:

11 23 Sec. 17. Section 455B.109, subsection 5, paragraph b, Code
11 24 2009, is amended by adding the following new subparagraph:
11 25 NEW SUBPARAGRAPH. (4) Civil penalties assessed by the
11 26 department and interest on the civil penalties, arising out of
11 27 violations involving dry bedded confinement feeding operations

11 28 under chapter 459B, shall be deposited in the animal
11 29 agriculture compliance fund as created in section 459.401.

11 30 Sec. 18. Section 455B.111, subsection 1, paragraphs a and
11 31 b, Code 2009, is amended to read as follows:

11 32 a. A person, including the state of Iowa, for violating
11 33 any provision of this chapter; chapter 459, subchapters I, II,
11 34 III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted
11 35 pursuant to this chapter; chapter 459, subchapters I, II, III,
12 1 IV, and VI; ~~or chapter 459A; or chapter 459B~~.

12 2 b. The director, the commission, or any official or
12 3 employee of the department where there is an alleged failure
12 4 to perform any act or duty under this chapter; chapter 459,
12 5 subchapters I, II, III, IV, and VI; chapter 459A; chapter
12 6 459B; or a rule adopted pursuant to this chapter; chapter 459,
12 7 subchapters I, II, III, IV, and VI; ~~or chapter 459A; or~~
12 8 chapter 459B, which is not a discretionary act or duty.

12 9 Sec. 19. Section 455B.111, subsection 5, Code 2009, is
12 10 amended to read as follows:

12 11 5. This section does not restrict any right under
12 12 statutory or common law of a person or class of person to seek
12 13 enforcement of provisions of this chapter; chapter 459,
12 14 subchapters I, II, III, IV, and VI; chapter 459A; chapter
12 15 459B; or a rule adopted pursuant to this chapter; chapter 459,
12 16 subchapters I, II, III, IV, and VI; or chapter 459A; chapter
12 17 459B; or seek other relief permitted under the law.

12 18 Sec. 20. Section 455B.112, Code 2009, is amended to read
12 19 as follows:

12 20 455B.112 ACTIONS BY ATTORNEY GENERAL.

12 21 In addition to the duty to commence legal proceedings at
12 22 the request of the director or commission under this chapter;
12 23 chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter~~
12 24 459A; or chapter 459B, the attorney general may institute
12 25 civil or criminal proceedings, including an action for
12 26 injunction, to enforce the provisions of this chapter; chapter
12 27 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or~~
12 28 chapter 459B, including orders or permits issued or rules

12 29 adopted under this chapter; chapter 459, subchapters I, II,
12 30 III, IV, and VI; ~~or chapter 459A; or chapter 459B~~.

12 31 Sec. 21. Section 455B.174, subsection 1, Code 2009, is
12 32 amended to read as follows:

12 33 1. Conduct investigations of alleged water pollution or of
12 34 alleged violations of this part of this division, ~~or chapter~~
12 35 459, subchapter III, chapter 459A, chapter 459B, or any rule
13 1 adopted or any permit issued pursuant thereto upon written
13 2 request of any state agency, political subdivision, local
13 3 board of health, twenty-five residents of the state, as
13 4 directed by the department, or as may be necessary to
13 5 accomplish the purposes of this part of this division, ~~or~~
13 6 chapter 459, subchapter III, chapter 459A, or chapter 459B.

13 7 Sec. 22. Section 455B.175, unnumbered paragraph 1, Code
13 8 2009, is amended to read as follows:

13 9 If there is substantial evidence that any person has
13 10 violated or is violating any provision of this part of this
13 11 division, chapter 459, subchapter III, ~~or chapter 459A, or~~
13 12 chapter 459B, or of any rule or standard established or permit
13 13 issued pursuant thereto; then:

13 14 Sec. 23. Section 455B.182, Code 2009, is amended to read
13 15 as follows:

13 16 455B.182 FAILURE CONSTITUTES CONTEMPT.

13 17 Failure to obey any order issued by the department with
13 18 reference to a violation of this part of this division;
13 19 chapter 459, subchapter III; ~~or chapter 459A; chapter 459B~~; or
13 20 any rule promulgated or permit issued pursuant thereto shall
13 21 constitute prima facie evidence of contempt. In such event
13 22 the department may certify to the district court of the county
13 23 in which such alleged disobedience occurred the fact of such
13 24 failure. The district court after notice, as prescribed by
13 25 the court, to the parties in interest shall then proceed to
13 26 hear the matter and if it finds that the order was lawful and
13 27 reasonable it shall order the party to comply with the order.
13 28 If the person fails to comply with the court order, that
13 29 person shall be guilty of contempt and shall be fined not to
13 30 exceed five hundred dollars for each day that the person fails
13 31 to comply with the court order. The penalties provided in
13 32 this section shall be considered as additional to any penalty
13 33 which may be imposed under the law relative to nuisances or
13 34 any other statute relating to the pollution of any waters of
13 35 the state or related to public water supply systems and a
14 1 conviction under this section shall not be a bar to
14 2 prosecution under any other penal statute.

14 3 Sec. 24. Section 455B.185, Code 2009, is amended to read

14 4 as follows:
14 5 455B.185 DATA FROM DEPARTMENTS.
14 6 The commission and the director may request and receive
14 7 from any department, division, board, bureau, commission,
14 8 public body, or agency of the state, or of any political
14 9 subdivision thereof, or from any organization, incorporated or
14 10 unincorporated, which has for its object the control or use of
14 11 any of the water resources of the state, such assistance and
14 12 data as will enable the commission or the director to properly
14 13 carry out their activities and effectuate the purposes of this
14 14 part 1 of division III; chapter 459, subchapter III; ~~or~~
14 15 chapter 459A; or chapter 459B. The department shall reimburse
14 16 such agencies for special expense resulting from expenditures
14 17 not normally a part of the operating expenses of any such
14 18 agency.

14 19 Sec. 25. Section 459.401, subsection 2, paragraph a,
14 20 subparagraph (5), Code 2009, is amended to read as follows:
14 21 (5) The collection of civil penalties assessed by the
14 22 department and interest on civil penalties, arising out of
14 23 violations involving animal feeding operations as provided in
14 24 sections 459.602, 459.603, ~~and 459A.502, and 459B.402~~.

14 25 EXPLANATION

14 26 DIVISION I. DRY BEDDED CONFINEMENT FEEDING OPERATIONS.
14 27 The bill creates a new Code chapter referred to as the "Animal
14 28 Agriculture Compliance Act for Dry Bedded Confinement Feeding
14 29 Operations" (new Code section 459B.101). The bill's
14 30 provisions correspond closely to the "Animal Agriculture
14 31 Compliance Act" (Code chapter 459). The bill regulates dry
14 32 bedded confinement feeding operations for animals (cattle and
14 33 swine). The operation includes a building housing the animals
14 34 utilizing bedding (crop, vegetation, or forage residue or
14 35 similar materials) and any structure used to keep the dry
15 1 bedded manure (new Code section 459B.102).

15 2 ADJACENCY. The bill provides that two or more dry bedded
15 3 confinement feeding operations under common ownership or
15 4 common management are deemed to be a single dry bedded
15 5 confinement feeding operation if they are separated by less
15 6 than 1,250 feet or utilize a common area or system for dry
15 7 bedded manure disposal (new Code section 459B.103 compared to
15 8 Code section 459.201).

15 9 ADMINISTRATION. The bill authorizes the environmental
15 10 protection commission to adopt rules necessary to regulate the
15 11 construction or operation of dry bedded confinement feeding
15 12 operations, and provides that the provisions of the new Code
15 13 chapter are to supplement the applicable provisions of Code
15 14 chapter 459 (new Code section 459B.104 compared to Code
15 15 section 459.103).

15 16 CONSTRUCTION. The bill regulates the construction of dry
15 17 bedded confinement feeding operation structures, and requires
15 18 special flooring to prevent groundwater contamination (new
15 19 Code section 459B.201). Separation distances are required
15 20 between a dry bedded confinement feeding operation structure
15 21 and various objects or locations, including the surface intake
15 22 of an agricultural drainage well, wellhead, cistern of an
15 23 agricultural drainage well, or known sinkhole, a water source
15 24 and major water source, and designated wetland. It prohibits
15 25 construction within a 100 year floodplain (new Code section
15 26 459B.202 compared to Code section 459.310).

15 27 DRY BEDDED MANURE CONTROL. The bill provides for the
15 28 stockpiling of dry bedded manure, and includes separation
15 29 distances based on air and water quality.

15 30 AIR QUALITY. For air quality, separation distances are
15 31 established for a stockpile and a residence not owned by the
15 32 titleholder of the land, a commercial enterprise, a bona fide
15 33 religious institution, an educational institution, or a public
15 34 use area (new Code section 459B.301 compared to Code section
15 35 459.204). Several exceptions apply, including when a
16 1 titleholder executes a waiver, and the manure originates from
16 2 a small animal feeding operation (compared with Code section
16 3 459.205).

16 4 WATER QUALITY. For water quality, other separation
16 5 distance requirements apply, including for a "designated area"
16 6 (i.e., a known sinkhole, a cistern, an abandoned well, an
16 7 unplugged agricultural drainage well, an agricultural drainage
16 8 well surface inlet, a drinking water well, a wetland, or a
16 9 water source, but not a terrace tile inlet or surface tile
16 10 inlet other than an agricultural drainage well surface tile
16 11 inlet), a high-quality water resource, a terrace tile inlet,
16 12 or a surface tile inlet (new Code section 459B.302). The bill
16 13 restricts stockpiling on a grassed waterway, on certain
16 14 slopes, and on karst terrain or in an alluvial aquifer area.

16 15 MANURE MANAGEMENT PLAN. The bill provides that a person
16 16 required to file a manure management plan for dry bedded
16 17 manure confinement feeding operation may submit a copy of a
16 18 written agreement executed between the person and the person
16 19 renting the land for crop production (new Code section
16 20 459B.303 compared with Code section 459.312).

16 21 ENFORCEMENT. The department and the attorney general are
16 22 responsible for enforcing the provisions of the new Code
16 23 chapter (new Code section 459B.401 as compared with Code
16 24 section 459.601).

16 25 PENALTIES. A person who stockpiles dry bedded manure in
16 26 violation of air quality restrictions under new Code section
16 27 459B.301 is subject to a civil penalty for air quality
16 28 violations as provided in Code section 455B.109, which
16 29 authorizes the environmental protection commission to
16 30 establish civil penalty amounts according to a schedule not to
16 31 exceed \$10,000 (new Code section 459B.402 compared with Code
16 32 section 459.602). A person who violates any other provision
16 33 of the new Code chapter is subject to penalties for water
16 34 quality violations as provided in Code section 455B.109 or
16 35 455B.191 which includes a judicially assessed civil penalty of
17 1 up to \$5,000 per each day of the violation (new Code section
17 2 459B.402 compared with Code section 459.603). Moneys
17 3 collected from civil penalties are deposited into the animal
17 4 agriculture compliance fund (Code section 459.401).

17 5 DIVISION II. CONFORMING CHANGES. The bill amends
17 6 provisions in a number of Code sections which refer to Code
17 7 chapter 459. The provisions were added after provisions in
17 8 Code chapter 455B and other Code chapters relating to animal
17 9 feeding operations were transferred and consolidated pursuant
17 10 to 2002 Acts, chapter 1137, and 2002 Acts, 2nd Ex, chapter
17 11 1003. Other provisions make changes which refer to the
17 12 deposit of civil penalties into the animal agriculture
17 13 compliance fund (Code section 459.401).

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